

**REMARKS**

This response is in reply to the Office Action mailed December 1, 2006. Claims 1-48 are pending in the application. Claims 11, 12, 15-18 and 27-48 are withdrawn. Claims 1-10, 13, 14, 19-23, and 26 are rejected. Claims 24 and 25 are objected to.

Claims 1-10, 13-14, 19, 22-23, and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,159,214 (hereinafter Michelson). Michelson discloses in Figures 66 and 67 a milling block system with a base 1112 and a guide member 1110. The base is positioned against the vertebral members and includes a rectangular main body with a central opening. A pair of distractor elements extend outward from the lower face and are sized to fit within adjacent vertebral members. A recess is positioned in a front face of the main body opposite from the distractor elements. The guide member includes a leading surface that fits within the recess in the main body of the base. ***The guide member does not extend below a distal side of the main body.*** The guide member further includes a threaded port for engaging various instruments for positioning within the central opening of the base.

Claim 1 has been amended to now include a docking ring and a mount, with the mount extending below the distal side of the docking ring. Michelson discloses the guide member contained within the main body of the base such that it does not extend below the distal side. Therefore, claim 1 and dependent claims 2-7 are not anticipated for at least these reasons.

Claim 8 has been amended to now include that the spacer extends below a distal side of the body to be positioned between the first and second vertebral members when the distal side of the body is positioned on a surface of the first and second vertebral members. As previously discussed, Michelson does not disclose the guide member extending below a distal side of the base. Therefore, independent claim 8 and dependent claims 9-10, 13-14, and 19 are not anticipated by Michelson for at least these reasons.

Claim 22 has been amended to include the allowable subject matter of objected to claim 24. Therefore, claim 22 and dependent claims 23, 25, and 26 are not anticipated for at least this reason.

Claims 20 and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,489,307 (hereinafter Kuslich). Kuslich discloses a drill tube as illustrated in Figure 31. The distal end of the tube includes teeth for engagement with the vertebral members. A vertebral reamer as illustrated in Figure 34 is sized to fit within the tube. The reamer includes a distal end with cutting blades 131. The reamer is axially moved along the tube and rotated with the blades contouring the vertebral members.

Claim 20 requires that the spacer be attached to the body. This is clearly supported throughout the specification and illustrated in Figure 7. ***The reamer of Kuslich is not attached to the tube, but rather positioned within the tube to be axially movable to contour the vertebral members.*** To further clarify this difference, claim 20 has been amended to now state that the spacer is fixedly attached to the body. The body and the spacer together provide a foundation for alignment of a variety of other instruments for treating the vertebral members. Therefore, claim 20 and dependent claim 21 are not anticipated for at least these reasons.

Claim 21 further requires that the spacer include a plurality of outwardly extending wings that mount to the body. The Office Action states that blades 31 are outwardly extending wings that mount to the body. These blades do not mount to the body, but rather contact an inner edge of the tube during rotation and contouring. Because Kuslich does not disclose wings that mount to the body, claim 21 is also not anticipated for at least this reason.

Claims 22 and 23 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,113,602. Claim 22 has been amended to now include the allowable subject matter of objected to claim 24.

Claims 1-7 were objected to due to an inconsistency between the preamble and elements of the claims. These claims have been amended and are directed to a system to prepare vertebral members for an implant.

Claims 8-10, 13-14 and 19 were rejected under 35 U.S.C. 112, second paragraph. Claim 8 has been amended to now more clearly state that the spacer extends below a distal side of the body and may be positioned between the first and second vertebral members when the distal side of the body is positioned on a surface of the vertebral members. This structure is clearly shown in Figure 7.

In view of the above amendments and remarks, the Applicant's submit that the application is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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